

MEMORANDUM

TO: Indiana School Superintendents, Administrators, Attendance Officers,
School Counselors and School Social Workers

FROM: The Department of Social, Emotional, and Behavioral Wellness

SUBJECT: Right to Attend School Pending a Mental Health Assessment

DATE: May 29, 2019

When a school responds to a student who has mental health issues, the school should work with their school counselors, school psychologists and school social workers who have training to make an initial assessment. If the initial assessment indicates that the student is in need of comprehensive mental health services, the school should communicate with the parent about options for a mental health evaluation.

Per IC 20-33-2-46, except as provided in subsection (c), a superintendent or school leader **may exclude or excuse** a student found mentally or physically unfit for school attendance. An exclusion or excuse under this section is valid only for the school year during which it is issued and shall not violate a student's right to a free and appropriate public education under federal law. A student may not be compelled to undergo any examination or treatment under this chapter when the student's parent objects on religious grounds.

If a physician, psychologist, or psychiatrist certifies that a student is fit for school attendance, the superintendent or school leader may not exclude or excuse that student. However, nothing in this section shall prohibit a school from disciplining a student pursuant to any legal authority, including but not limited to IC 20-33-8.

The school may not refuse to provide educational services pending a psychiatric evaluation. If the school believes the student is a danger to himself or others, the school may determine the child should be educated in an alternative setting. The school's determination that a student is in need of a suicide evaluation or mental health assessment is not grounds for a suspension or expulsion, which are the only reasons a child can be excluded from education following due process. In addition, if a school requires any evaluation pending the right to return to school, the evaluation would be at the expense of the school. Furthermore, IC 20-33- 2-46 (effective July 1, 2014), includes that if a physician, psychologist, or psychiatrist certifies that a student is fit for school attendance, the superintendent or school leader may not exclude or excuse that student. This shall not prohibit a school from disciplining a student pursuant to any legal authority, including but not limited to IC 20-33-8.



The policy and protocols that protect students in the event that they are suicidal or may be harmed by another student should be included in your school district's Crisis Intervention Plan ([511 IAC 4-1.5-7](#)).

It is important to ensure that school practices comply with 511 IAC 7, IC 20-35, and IDEA.

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